

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

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WRIT PETITION NO : 12348 of 2005

Between:

P. Imam Khan, S/o. Murad Khan,
Zilla Grandhalaya Samstha, Nellore (Under Suspension)

..... PETITIONER

AND

- 1 The Government of A.P. rep by its Principal Secretary, School Education (Libraries) Department, Secretariat Buildings, Hyderabad.
- 2 The Director of Public Libraries, A.P., Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ in the nature of Certiorari or any other appropriate writ order or direction by calling for the records relating to the proceedings of the 2nd respondent bearing R.c.No. 148-A4/2004, dt. 27-5-2004 and quash the same with all consequential benefits by declaring it and continuance of the petitioner under suspension as illegal, arbitrary and unconstitutional.

Counsel for the Petitioner:MR.S.GOPAL RAO

Counsel for the Respondents: GP FOR SCHOOL EDUCATION

The Court at the stage of admission made the following ORDER:

This writ petition is filed by the petitioner aggrieved by the action of the respondents in continuing him under suspension from 27-05-2004 even though six months period from the date of suspension had expired long back and the said suspension order is being continued without obtaining previous orders of the Government as contemplated under the proviso to Rule 6(a) of the Andhra Pradesh Local Library Authority Services (Classification, Control and Appeal) Rules, 1968 made in exercise of rules under Section 25(2)(e) of the Andhra Pradesh Public Libraries Act, 1960.

The grievance of the petitioner is that the continuation of the petitioner under suspension even after expiry of the suspension period without there being any orders of the Government is illegal and unsustainable and in fact, the suspension order itself has automatically lapsed after expiry of six months as there are no Governmental orders before the expiry of the said period of six months for further extending the same.

On the last occasion, when this matter came up for hearing, the learned Government Pleader was directed to ascertain whether any orders of the Government are passed extending the suspension. Today, when the matter is taken up for hearing, on instructions, the learned Government Pleader placed before this Court a copy of the proceedings of the Director of Public Libraries, Andhra Pradesh, Hyderabad, dated 21-06-2005 extending the suspension for a further period of six months from 26-05-2005 and to pay subsistence allowance for the said period. But the said proceedings are not in accordance with the proviso to rule 6(a) of the Rules. If an order of suspension is passed by the Chairman of the Local Library Authority, then the Director can pass orders extending the period of suspension. Where the order of suspension itself is passed by the Director, it is only the Government, which is required to pass an order for extension of the suspension period.

In the present case, there is no order passed by the Government extending

the suspension of the petitioner after expiry of six months from the date of original suspension. In the absence of such orders from the Government, the order of suspension ceased to exist after expiry of six months. Therefore, the petitioner is deemed to be in service and is accordingly, directed to be reinstated and continued in service. However, it is made clear that the order passed by this Court does not come in the way of the authorities for taking appropriate action in accordance with law.

The writ petition is accordingly disposed of. No order as to costs.

(S.ANANDA REDDY, J)

22nd JUNE, 2005.

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To

1 The Principal Secretary, Government of A.P., School Education (Libraries) Department, Secretariat Buildings, Hyderabad.

2 The Director of Public Libraries, A.P., Hyderabad.

3 Two CCs to the Government Pleader for School Education, A.P.High Court Buildings, Hyderabad (OUT).

4 Two CD copies.